

REMARKS/ARGUMENTS

Claims 6-9, 16 and 17 are pending in the present application. Claims 6 and 16 are amended. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 103, Obviousness

The Examiner rejects claims 6-9, 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Fox et al. (U.S. Patent No. 6,421,781 B1) in view of Applicant's Admitted Prior Art (APA). This rejection is respectfully traversed.

With regard to claim 6, the Examiner states the following:

Fox discloses a commodity purchasing method through a network, comprising the steps of: receiving a connection request from a device (FIG 2) ; determining whether the connection request includes an identifier (FIG 3), wherein the identifier corresponds to an identification code of a cellular phone (FIG 3)and wherein the identifier identifies that the connection request is-from a cellular phone (FIG 3, item 302); in response to the connection request including the identifier, performing the following steps; storing the identifier and user status information associated with the identifier in a database contained in a system for receiving the connection request (FIG 3); and executing session control using the identifier and the user status information (col 2, lines 23-65);

"Fox discloses a server, such as device 202, which provides information accessible to other computing devices on the Internet 104 (Fox, col.5, 11. 27-29). Fox discloses that other such computing devices connected to the Internet can be desktop personal computers (Fox, col. 3, 1. 55). It would appear that the server 202 provides information accessible to both computers and mobile devices, and thus receives connection requests from both types of devices. APA describes using history information, i.e., a cookie, to effect session control where the connection request involved is not from a mobile device (instead, a computer) as required by claims 6 and 16. (Specification 3:5-9) As to the limitation in claims 6 and 16 of "determining whether the connection request includes an identifier, wherein the identifier corresponds to an identification code of a cellular phone and wherein the identifier identifies that the connection request is from a cellular phone," Fox discloses: Referring to the table in FIG. 3, a subscriber ID list 302 maintains a list of subscriber IDs of the mobile devices ... " (Fox col. 6, 11. 29-30)

The URLs representing the information subscribed to by the user are grouped and maintained in URL table 306. It can be appreciated that subscriber ID list 302 generally maintains a plurality of subscriber IDs, each corresponding to one mobile device ... (Fox, col. 6, 11. 43-49) Fox would appear to disclose determining an identifier (ID) associated with a mobile device as required by claims 6 and 16 because, in Fox, the IDs in list 302 are grouped together as mobile devices, and any connection request using an ID from this group (302) would be known or identified by the system as being associated with a mobile device based on the group classification."Accordingly, it would have been obvious to one of ordinary skill in the art to have provided the combination of Fox and APA. All of the recited steps are shown by the combination of Fox and APA and there is no evidence of unpredictable results. Under these circumstances, "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739 (2007)."

Supplemental Examiner's Answer, May 22, 2008, pp. 5-6.

Applicants have amended claim 6. Support for the claim amendments can be found on page 18, lines 1-10 of the Specification as filed. Claim 6, as amended, is as follows:

6. A commodity purchasing method through a network, comprising the steps of:
 - receiving a connection request from a device;
 - determining whether the connection request includes an identifier, wherein the identifier corresponds to an identification code of a cellular phone and wherein the identifier identifies that the connection request is from a cellular phone;
 - in response to determining that the connection request includes the identifier, performing the following steps:
 - storing the identifier and user status information associated with the identifier in a database contained in a system for receiving the connection request; and
 - executing session control using the identifier and the user status information; and
 - in response to determining that the connection request does not include the identifier, executing session control for the device using history information that is communicated between the system and the device.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In determining obviousness, the scope and content of the prior art are... determined; differences between the prior art and the claims at issue are... ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or non-obviousness of the subject matter is determined. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). “Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR Int’l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)).

Fox in view of APA does not make obvious claim 6, because Fox in view of APA does not teach the claim feature of “in response to determining that the connection request does not include the identifier, executing session control for the device using history information that is communicated between the system and the device.”

Specifically with regard to the cited claim feature, the Examiner relies on the Applicant’s admitted prior art, which as the Board points out, describes

APA describes using history information, i.e., a cookie, to effect session control where the connection request involved is not from a mobile device (instead, a computer) as required by claims 6 and 16.
(Specification 3:5-9)

Supplemental Examiner’s Answer, May 22, 2008, p. 6.

However, APA does not disclose the amended feature, wherein session control for the device is executed in response to determining that the connection request does not include the identifier.

Additionally, Fox does not address or overcome the deficiencies of APA. Fox describes only using subscriber IDs to communicate with the subscriber. Fox does not teach executing session control for the device using history information that is communicated between the system

and the device in response to the connection request not including the identifier. Furthermore, nowhere in any section of Fox does the term “history information.” Therefore Fox does not teach in response to the connection request not including the identifier, executing session control for the device using history information that is communicated between the system and the device.

Independent claim 16 recites similar subject matter to that recited in claim 6. That is, claim 16 recites “in response to the connection request not including the identifier, executing session control using history information that is communicated between a system and the device.”

Thus, Fox does not teach each and every feature of independent claims 6 and 16 as is required under 35 U.S.C. § 102. At least by virtue of their dependency on independent claims 6 and 16, the specific features of dependent claims 7-9 and 17 are not taught by Fox. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 6-9, 16, and 17 under 35 U.S.C. § 102.

CONCLUSION

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: July 24, 2008

Respectfully submitted,

/Brandon G. Williams/
Brandon G. Williams
Reg. No. 48,844
YEE & ASSOCIATES, P.C.
PO Box 802333
Dallas, TX 75380
(972) 385-8777